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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,993	05/09/2001	Paul Estridge JR.		3491
7590	09/13/2005		EXAMINER	
KRIEG DeVault ALEXANDER & CAPEHART, LLP			VIG, NAresh	
825 Anthony Wayne Building			ART UNIT	PAPER NUMBER
203 E. Berry Street				
Fort Wayne, IN 46802			3629	

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/850,993	ESTRIDGE, PAUL	
	Examiner Naresh Vig	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 June 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-70 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-70 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

This is in reference to response received on 15 June 2005 to the office action mailed on 13 December 2004. There are 70 claims, claims 1 – 70 pending for examination.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 42 and 61 – 70, drawn to a process for developing real estate by separating private easements for the provision of common services in a developed community from dedicated public rights-of-way; establishing one or more decision making authorities to control said private easements as privately owned entities; transferring exclusive rights in and to said common services easements within said parcel to said one or more decision making authority; said exclusive rights transferred to said one or more decision making authorities include the right to establish infrastructure for common services on both commonly owned and privately owned areas within said community; recording said transferring of said exclusive rights in said or one or more decision making authorities with an appropriate governmental real estate records office before dedicating public rights-of-way for roadways, curbs, and sidewalks to a municipality; wherein each step is performed pursuant to obligations arising out of a

system of interrelated contractual requirements regarding the development of said community, classified in class 705, subclass 1.

- II. Claims 2 – 11, 44 – 47 and 59, drawn to a process by a developer entity for establishing in at least one privately owned access entity the beneficial and exclusive ownership of and control over access to common services easements within a developed community by acquiring fee simple ownership in a parcel of real estate for developing into a community; transferring exclusive rights in and to said common services easements within said parcel to said at least one access entity; municipality having no control over common services access as a result of said dedicated public rights-of-way; wherein said exclusive rights transferred by developer entity to access entity include the right to establish infrastructure for common services on both commonly owned and privately owned areas within community; recording said transferring of said exclusive rights with an appropriate governmental real estate records office before said dedicating step; license agreements provide common services for said community through a single source; examining the recorded title documents relating to said parcel of real estate to determine what easements, reversions and other property rights exist that said parcel of real estate is subject relating to access by a common service provider to said parcel; developer entity

transfers exclusive rights in and to said common areas to a lot owners association, classified in class 705, subclass 1.

- III. Claims 12 – 19 and 43, drawn to a process for obtaining a license for access to private common services easements on a parcel of real estate by assisting a real estate developer in establishing private ownership and control over common services easements within said parcel of real estate to be developed into a community; implementing a fee structure that encourages the owner of said private common services easements to enter into and maintain license arrangements that permit at least one licensee to utilize said private common services easements for providing common services to said community; acquiring fee simple ownership in a parcel of real estate for developing into a community; transferring exclusive rights of said common services easements in said parcel to said at least one access entity; dedicating public rights-of-way for roadways taken by municipality subject to said exclusive rights, whereby said municipality has having no control over common services access; wherein competitive shield comprises minimum access fee amounts and most favored nations status whereby under which said private access entity may grant licenses to other common service providers in the event said fee structure is equaled or bettered by another common service provider;

license agreements provide common services for said community through a single source, classified in class 705, subclass 1.

IV. Claim 20 – 32 and 48 – 52, drawn to a process for providing common services to a developed community by entering into a license arrangement with an access entity that owns and controls at least some of the common services easements of a parcel of real estate to be developed as a community wherein owners of lots within said community contract with a single source provider for the provision or coordination of said common services; wherein beneficial and exclusive ownership of and control over said access to said common services easements is created by acquiring fee simple ownership in a parcel of real estate for developing into a community; transferring exclusive rights of said common services easements in said parcel to at least one said access entity; and dedicating public rights-of-way of said parcel being taken by municipality subject to said exclusive rights; common services are provided to a plurality of lots in said community over fewer than three cables wherein said license arrangement permits said single source provider to sublicense utilization of said easements to a plurality of individual providers of services included in said common services; wherein at least one of said individual service providers is a wholly owned subsidiary of said single source; wherein transferring step includes examining the recorded title documents relating

to said parcel of real estate to determine what easements, reversions and other property rights exist that said parcel of real estate is subject with regard to access by a common service provider to said parcel; developer entity transfers exclusive rights in and to said common areas to a lot owners association; wherein said single source distributes said common services to a plurality of lots in said community through a computer network, classified in class 705, subclass 1.

V. Claim 33 – 41 and 53 – 56 drawn to a method of separating real estate easements from land ownership by acquiring fee simple title in a parcel of real estate by a developer; separating in gross common services easements from said fee simple title; separating the public right-of-way from said common services easements and said fee simple title; separating all other easements from said common services easements and from said public right-of-way and from said fee simple title; transferring at least one of said common services and all other easements to a privately owned company for a fee; and dedicating said public right-of-way to the public; said public right-of-way being dedicated subject to said common services and all other easements previously transferred to said privately owned company thereby eliminating public control over said transferred easements and all public rights to access to said parcel for providing common services; privately owned company constructing utility

conduits on said parcel in accordance with said easements licensed to said company and allowing said sub-licensed common services providers to use said conduits; service provider passing fee in proportion to private company, owner of privately owned company; selling portions of said parcel by a developer, and said owner engaging in the training of said developer in marketing portions of said parcel; developer contracting the construction of common infrastructure, homes on individual portions of parcel; examining the recorded title documents to said parcel of real estate to determine what easements, reversions and other property rights that said parcel of real estate is subject relating to access to said parcel of real estate by a common -service provider; wherein developer entity transfers exclusive rights in and to said common areas to a lot owners association, classified in class 705, subclass 1.

VI. Claims 57, 58 and 60, drawn to a recordable real estate plat comprising individual lots to be sold to residents of a developed community, common areas to be conveyed to a lot owners association, public rights-of-way for roadways, curbs, and sidewalks to be held by a municipality, and common services easements and other easements to be held by a legally recognized privately held legal access entity for the provision of common services to said developed community; wherein easements include

common services easements or easement areas, classified in class 705, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II – VI are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because invention I claims limitations not claimed by inventions II – VI.

Inventions II and I & III – VI are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because invention II claims limitations not claimed by inventions I & III – VI.

Inventions III and I – II & III – VI are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other

combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because invention III claims limitations not claimed by inventions I – II & III – VI.

Inventions IV and I – III & V – VI are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because invention IV claims limitations not claimed by inventions I – III & V – VI.

Inventions V and I – IV & VI are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because invention IV claims limitations not claimed by inventions I – IV & VI.

Inventions VI and I – V are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed

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does not require the particulars of the subcombination as claimed because invention VI claims limitations not claimed by inventions I – V.

Because these inventions are distinct for the reasons given above and the search required for either Group is not required for other Groups, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 6:00 (Wednesday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naresh Vig
Examiner
Art Unit 3629

September 6, 2005